

### Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable.

The non-final Office Action dated September 28, 2005, indicated that claims 45-66 are rejected under 35 U.S.C. § 101.

Applicant respectfully traverses the Section 101 rejection because the stated rationale is incorrect in view of the recent Board of Patent Appeals and Interference's decision in *In re Lundgren* BPAI Case Nos. 2003-2088 Sept. 28, 2005)(*Per Curium*, Smith, APJ., dissenting; Barrett, APJ., concurring). The Office Action indicates that the rejection was presented because, "The method and system claims as presented do not claim a technological basis in the body of the claim." See instant Office Action at page 2. More specifically, with reference to independent claim 45, the Office Action states at the bottom of page 2 that "Applicant needs to establish in the body of the claim that a machine is performing the steps." In the *In re Lundgren* decision, a three judge majority of an expanded five judge panel held that there was no separate "technological arts" test for patentable subject matter, either under the U.S. Constitution or the applicable case law. The *Lundgren* decision further supports Applicant's arguments presented in the previous Office Action Response filed on June 28, 2005, which asserted that Section 101 does not mention any technological basis requirement and a search of the MPEP does not identify any discussion of a need to show any such technological basis. Thus, the Office Action's requirement of establishing machine implementation in the body of the instant claims in order to satisfy a technological basis for the claimed subject matter is incorrect and directly contradicts the current precedent in the USPTO. Applicant accordingly submits that the rejection is improper and requests that it be withdrawn.

Moreover, Applicant maintains that the claimed subject matter is statutory and complies with Section 101. For example, the claimed subject matter does not merely involve the manipulation of an abstract idea, at least in view of limitations directed to "notifying when the consideration-bearing bank account is below a threshold." Applicant submits that none of the judicial exceptions apply to the claimed subject matter and accordingly requests that the claims be examined on their merits.

In view of the above discussion, Applicant believes that the rejection is improper and that the application is in condition for allowance. A favorable response is requested. Should there be

any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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By: 

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